



90 MERRICK AVENUE, 9TH FLOOR
EAST MEADOW, NY 11554
PHONE: 516.296.7000 • FAX: 516.296.7111
www.certilmanbalin.com

THOMAS J. McNAMARA
PARTNER
DIRECT DIAL 516.296.7057
tmcnamara@certilmanbalin.com

April 10, 2024

VIA ELECTRONIC CASE FILING

Honorable Mae A. D'Agostino
United States District Judge
United States District Court
Northern District of New York
James T. Foley U.S. Courthouse
445 Broadway
Albany, New York 12207

***Re: Compass-Charlotte 1031, LLC v. Prime Capital Ventures, LLC et al.
1:24-cv-00055-MAD-CFH***

Dear Judge D'Agostino:

On behalf of the Berone Defendants we write briefly to respond to the letter from the Receiver's counsel dated April 9, 2024 (Dkt. No. 164) concerning the Receiver's request for leave to serve document subpoenas upon third-parties.

In the Court's memorandum decision and order dated March 19, 2024, Your Honor stated that: "Plaintiff alleges that it paid Prime Capital \$15,902,250 in April 2023 as an interest credit account (ICA) payment to secure a loan for \$79,511,250 pursuant to a credit agreement." Dkt. No. 160, at 4. The Court also stated that: "The purpose of the Receiver was to locate Plaintiff's ICA deposit which Plaintiff alleges was secured by fraud from Prime Capital and the Berone Defendants." *Id.* at 40.

Accordingly, we have no objection to the Receiver's service of subpoenas upon third-parties with respect to the period April, 2023 going forward. With respect to subpoenas relating to financial records prior to the date of Compass' April 2023 transfer, however, it appears that this represents an expensive fishing expedition not reasonably calculated to shed light on the issue for which the Receiver was appointed, locating and preserving the ICA deposit made by Plaintiff in April 2023.

Respectfully submitted,

/s/ Thomas J. McNamara

Thomas J. McNamara, Esq.

cc: Counsel of record (by ECF)
TJM/lan